(15)

Supreme Court, U.S.
FILED
JAN 18 2000
CLERK

No. 8, Original

In The

Supreme Court of the United States

STATE OF ARIZONA,

Complainant,

v.

STATE OF CALIFORNIA, ET AL.

On Exceptions To The Report Of The Special Master

OBJECTION OF THE STATE OF CALIFORNIA, THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, THE COACHELLA VALLEY WATER DISTRICT AND THE COLORADO RIVER INDIAN TRIBES TO THE MOTION OF THE WEST BANK HOMEOWNERS ASSOCIATION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*

SCOTT B. MCELROY*
ALICE E. WALKER
GREENE, MEYER & MCELROY, P.C.
1007 Pearl Street, Suite 220
Boulder, Colorado 80302
(303) 442-2021

Counsel for the Colorado River Indian Tribes

**Counsel of Record*

January 19, 2000

[Names Of Additional Counsel Appear On Inside Front Cover]

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

7 pp

BILL LOCKYER
Attorney General
RICHARD M. FRANK
Chief Assistant Attorney General
MARY E. HACKENBRACHT
Assistant Attorney General
DOUGLAS B. NOBLE
Deputy Attorney General
State of California
300 South Spring Street
Los Angeles, CA 90113

Counsel for the State of California

STEVEN B. ABBOTT
REDWINE & SHERRILL
1950 Market Street
Riverside, CA 92501

Counsel for Coachella Valley Water District

KAREN L. TACHIKI
Assistant General Counsel
The Metropolitan Water
District of Southern California
P.O. Box 54153
Los Angeles, CA 90054

JEROME C. MUYS
MUYS & ASSOCIATES, P.C.
1575 Eye Street, N.W., Suite 300
Washington, D.C. 20005

*Counsel for The Metropolitan Water
District of Southern California*

The State of California, The Metropolitan Water District of Southern California, the Coachella Valley Water District and the Colorado River Indian Tribes respectfully object to the *Motion of the West Bank Homeowners Association for Leave to File Brief Amicus Curiae* (Dec. 20, 1999) ("Association's Motion") because the proposed brief does not "bring[ ] to the attention of the Court relevant matter. . . . " SUP. CT. R. 37.1. Having previously been denied permission to intervene in this case, *Order* (Apr. 24, 1995), the West Bank Homeowners Association ("Association") now seeks to file an amicus brief to oppose the portion of the Special Master's Report recommending approval of the parties' proposed settlement to finally resolve the water rights claims related to the Colorado River Indian Reservation. *See Report and Recommendation of Special Master Frank J. McGarr* at 14 (July 28, 1999) ("Master's Report") (The Master recommends approval of the Colorado River settlement because it "would equitably resolve the water rights disputes. . . . "). The Association has no interest in the water rights at stake in this case. *See Memorandum Opinion and Order No. 17* at 2 (Special Master, Mar. 29, 1995) ("Order No. 17") ("The Association does not own land in the disputed area and makes no claim to title or water rights."). Instead, the Association, whose members are current or former lessees of the United States, asks this Court to broaden the present litigation to include its quarrel with the United States' administrative treatment of land which the federal government unquestionably owns. In seeking to interject the

question of the administrative treatment of federal land into this interstate water adjudication, the Association fails to satisfy the requirement of SUP. CT. R. 37.1 that amicus briefs contain relevant matter. The grounds for this objection are further explained below.

1. This case is a water rights case and the Court repeatedly has advised that it would not broaden its scope to include the multitude of issues that might be related to the determination of the water rights claims of the tribes. *See Arizona v. California*, 373 U.S. 546, 601 (1963) ("We disagree with the Master's decision to determine the disputed boundaries of the Colorado River Indian Reservation and the Fort Mohave Indian Reservation."); 460 U.S. 605, 638 (1983) ("It is clear enough to us and it should have been clear enough to others, that our 1963 opinion and 1964 decree anticipated that if at all possible, the boundary disputes would be settled in other forums."). As the Special Master and the affected parties have concluded, the proposed settlement for the Colorado River Indian Reservation ("Reservation") finally resolves the water rights issue associated with the boundary dispute for the Reservation. Master's Report at 10-14. The *Brief Amicus Curiae of the West Bank Homeowners Association* (Dec. 18, 1999) contains no support for its conclusory accusation that the proposed settlement will fail to bring complete closure to the tribal water rights claims related to the disputed boundary of the Reservation. Rather, the proposed settlement responds fully to the initial request of the State Parties to reopen the decree in this case "to finally establish the water rights entitlements of the three reservations and to remove the clouds on the entitlements of non-Indian users. . . . " *Motion of*

State Parties to Reopen Decree to Determine Disputed Boundary Claims with Respect to the Fort Mojave, Colorado River and Fort Yuma Indian Reservations at 2 (July 19, 1989). *See also Order*, 493 U.S. 886 (Oct. 10, 1989) (reopening decree to determine "disputed boundary **claims**" (emphasis added)).

2. At great risk to the litigating parties on either side who are satisfied with the proposed settlement of the disputed tribal water rights, the Association asks the Court to set aside the accord reached among the parties on the issue before the Court in order to adjudicate matters that are not necessary to the resolution of that issue. To be sure, the proposed settlement resolves only the water rights issue that is the subject of this case and not every dispute that might subsequently arise among the parties in connection with the boundary of the Colorado River Indian Reservation. Indeed, the parties worked hard to ensure that any potential conflict outside of this water rights determination would not be prejudiced by the settlement of their dispute over the tribal water rights. Those same protections also ensure that the interests of the Association are not improperly influenced by the resolution of the water rights dispute between the parties.

3. The Association reaches far beyond the record in this case to present a highly skewed picture of the matters that it argues support its position. Because its intervention was denied, many of the contentions which the Association now makes have not been tested for accuracy in any adversary setting. It is beyond the scope of this response to address each of those faulty assertions in detail. In short, the Association's brief raises a variety of

complex and highly disputed matters – unscreened by the Master – that have no bearing on the issue of the extent of the water rights to which the Colorado River Indian Tribes are entitled. With no record before the Master on many of these events, sorting out the true picture promises to be a burdensome task.

For the reasons described above, the additional matters which the Association seeks to present to the Court in its proposed amicus brief are not relevant to the issue before the Court. Accordingly, the Association's Motion should be denied.

Dated:

Respectfully submitted,

BILL LOCKYER
Attorney General
RICHARD M. FRANK
Chief Assistant Attorney General
MARY E. HACKENBRACHT
Assistant Attorney General
DOUGLAS B. NOBLE
Deputy Attorney General
STATE OF CALIFORNIA
300 South Spring Street
Los Angeles, CA 90113

Counsel for the State of California

STEVEN B. ABBOTT
REDWINE & SHERRILL
1950 Market Street
Riverside, CA 92501

Counsel for Coachella Valley Water District

KAREN L. TACHIKI,
Assistant General Counsel
THE METROPOLITAN WATER
DISTRICT OF SOUTHERN CALIFORNIA
P.O. Box 54153
Los Angeles, CA 90054

JEROME C. MUYS
MUYS & ASSOCIATES, P.C.
1575 Eye Street, N.W., Suite 300
Washington, D.C. 20005

Counsel for The Metropolitan Water District of Southern California

SCOTT B. MCELROY*
ALICE E. WALKER
GREENE, MEYER & MCELROY, P.C.
1007 Pearl Street, Suite 220
Boulder, Colorado 80302
(303) 442-2021

Counsel for the Colorado River Indian Tribes

**Counsel of Record*